IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.621 OF 2004

IN

SECOND APPEAL NO. 910 OF 2001

1. Bapu Balwant Falle and Ors. ..Appellants

Versus

Shri Pandurang Shankar Karanjkar ..Respondent

Shri R.V.Govilkar for appellants

Shri Pratap Patil for respondent

CORAM : P.V.KAKADE,J.

DATE : 2ND NOVEMBER, 2004

P.C.:

NOT ON BOARD.

1. Heard both the sides. Perused the earlier Order passed on 10.9.2004 permitting the Appellant to carry out the repairs of the suit shed. The learned counsel for the original respondent makes a statement that even as on today there is no shed and the appellants are under the guise that new construction is likely to be

made. Therefore, the question is whether there is a suit shed in existence as on today on the said site for that propose it would be just and proper to appoint the Court Commissioner. In view of this position it is hereby directed that Civil Judge, Senior Division, Islampur shall appoint a suitable person preferably an advocate, as the Court Commissioner, to carry out the inspection of the suit site and make report in that regard within three weeks from the date of this order. The advocate for the respondent submits that the respondent is ready to bare the cost of the Court Commissioner. He is directed to deposit an amount of Rs.1000/= initially towards fees and expenses of the Court Commissioner. On deposit of the said fees, the Office of this Court shall issue necessary Commission Patra to be carried by the respondent to the Court of Civil Judge, Senior Division, Islampur and the Civil Judge, Senior Division, Islampur shall in turn act accordingly on direction issued by this Court.

2. Report returnable after three weeks. In the meantime earlier order passed by this Court dated 10.9.2004 shall remain in abeyance and parties shall maintain status-quo as on today.

Certified copy expedited.